

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

MEDERO P. MOON,

3:10-CV-00616-HU

Petitioner,

ORDER

v.

RICK COURSEY,

Respondent.

BROWN, Judge.

Magistrate Judge Dennis James Hubel issued Findings and Recommendation (#65) on September 9, 2013, in which he recommends the Court deny Petitioner's Amended Petition (#13) for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254, dismiss this matter with prejudice, and grant a certificate of appealability. The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b).

When any party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1). *See also Dawson v. Marshall*, 561 F.3d 930, 932 (9<sup>th</sup> Cir. 2009); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9<sup>th</sup> Cir. 2003)(*en banc*).

In his Objections, Petitioner reiterates the arguments contained in his Amended Petition, Brief in Support of Petition, Reply to Response, Sur-Response to Respondent's Sur-Reply, and Supplemental Brief on *Martinez* Issues. This Court has carefully considered Petitioner's Objections and concludes they do not provide a basis to modify the Findings and Recommendation. The Court also has reviewed the pertinent portions of the record *de novo* and does not find any error in the Magistrate Judge's Findings and Recommendation.

#### CONCLUSION

The Court **ADOPTS** Magistrate Judge Hubel's Findings and Recommendation (#65), and, accordingly, **DENIES** the Amended Petition (#13) for Writ of Habeas Corpus, **DISMISSES** this matter **with prejudice**, and **GRANTS** a certificate of appealability as to whether Petitioner has demonstrated cause and prejudice or actual innocence sufficient to overcome his procedural default of Ground for Relief Five (freestanding claim of actual innocence) and

whether trial counsel rendered ineffective assistance of counsel as set forth in Ground for Relief One, ¶ 9(D).

IT IS SO ORDERED.

DATED this 6<sup>th</sup> day of December, 2013.

/s/ Anna J. Brown

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ANNA J. BROWN  
United States District Judge